

In re United States Patent Application of:		)	Docket No.:	020732-97.668
		)		(7493)
		)		
Applicants:	RATH, Melissa K., et al.	)	Conf. No.:	4823
		)		
Application No.:	10/792,038	)	Art Unit:	1752
		)		
Date Filed:	March 3, 2004	)	Examiner:	LE, Hoa Van
		)		
Title:	COMPOSITION AND PROCESS FOR	)	Customer No.:	24239
	POST-ETCH REMOVAL OF	)		
	PHOTORESIST AND/OR	)		
	SACRIFICIAL ANTI-REFLECTIVE	)		
	MATERIAL DEPOSITED ON A	)		
	SUBSTRATE	)		

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This Brief is being resubmitted a third time to comply with requests from the Office in the Office Communication of January 12, 2010. A Notice of Appeal was filed June 29, 2009. Applicants submitted the Appeal Brief on August 31, 2009. Applicants submitted a Resubmission of the Appeal Brief on October 20, 2009. Applicants submitted a Second Resubmission of the Appeal Brief on December 14, 2009. The appeal brief fee was previously paid.

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The total fee of \$130.00 is being paid by Electronic Funds Transfer. Authorization is hereby given to charge any deficiency in applicable fees for this response to Deposit Account No. 13-4365 of Moore & Van Allen PLLC.

No oral hearing is requested.

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## **REAL PARTY IN INTEREST**

The real party in interest in this appeal is Advanced Technology Materials, Inc., the owner of the invention and patent rights of this application, by virtue of an Assignment recorded in the assignment records of the U.S. Patent and Trademark Office at reel/frame 015048/0298 on March 3, 2004.

## **RELATED APPEALS AND INTERFERENCES**

There are no other appeals or interferences known to applicants, the applicants' legal representative or assignee, which will directly affect or be directly affected by or have a bearing on the Board's decision in this appeal.

## **STATUS OF CLAIMS**

Claims 1, 2, 4-6, 10, 15, 17-21, 53, 56 and 57 are pending in the subject application; and claims 1, 2, 4-6, 10, 15, 17-21, 53 and 56 are rejected while claim 57 has been objected to as being dependent upon a rejected base claim, and would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The species under examination, Formulation G in claim 7, has been provisionally allowed. Claims 3, 8, 9, 11-13, 16, 22, 23, 32, 36-38, 40-42, 51, and 52 were previously cancelled and claims 7, 14, 24-31, 33-35, 39, 43-50, 54-55 and 58-59 were previously withdrawn.

In the February 24, 2009 Final Office Action, the following rejections were made:

1. Claims 1-2, 4-5, 10, 15, 19-20 and 56 were rejected under 35 U.S.C. §103(a) as being unpatentable over Koito et al. (U.S. Patent Application Publication No. 20030130147) in view of En et al. (U.S. Patent Application Publication No. 20040134682) and Sato et al. (U.S. Patent No. 5,849,467).
2. Claims 1, 4-6, 10, 15, 17-21, 53 and 56 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over co-pending application No. 10/389,214 in view of En et al. (U.S. Patent Application Publication No. 20040134682).

The rejections of record that constitute the subject of this Appeal are the 35 U.S.C. §103 (a) rejection of claims 1-2, 4-5, 10, 15, 19-20 and 56 and the provisional rejection under the judicially created doctrine of obviousness-type double patenting of claims 1, 4-6, 10, 15, 17-21, 53 and 56. A complete listing of the provisionally allowed claim 57 and appealed claims 1, 2, 4-6, 10, 15, 17-21, 53 and 56 is provided in the Claims Appendix enclosed herewith.

### **STATUS OF AMENDMENT**

An amendment was filed on April 24, 2009 in response to the February 24, 2009 Final Office Action finally rejecting claims 1, 2, 4-6, 10, 15, 17-21, 53 and 56 appealed herein and the amendment was entered. No amendment to the claims was made after receipt of the Final Office Action of February 24, 2009. For purposes of discussing the rejections of the claims, claims 1, 2, 4-6, 10, 15, 17-21, 53 and 56 in the Claims Appendix are the same in substance to the form of claims 1, 2, 4-6, 10, 15, 17-21, 53 and 56 to which the February 24, 2009 Final Office Action was directed.

### **SUMMARY OF CLAIMED SUBJECT MATTER**

In the following paragraph, a concise explanation of the subject matter defined in representative claim 1 is set forth below, with reference to the specification of U.S. Patent Application No. 10/792,038 by page and paragraph numbers, the subject of the present appeal.

<p>Claim 1</p> <p>A cleaning composition comprising</p> <p>a quaternary base,</p> <p>at least one alkali or alkaline earth base, and</p> <p>at least one additional component selected from the group consisting of a chelator, an oxirane species, and combinations thereof,</p> <p>wherein said chelator comprises a species selected from the group consisting of: 1-amino-1,2,4-triazole; 1-amino-1,2,3-triazole; 1-amino-5-methyl-1,2,3-triazole; 3-mercapto-1,2,4-triazole; 3-isopropyl-1,2,4-triazole;</p>	<p>paragraph [0024]</p> <p>paragraph [0024]</p> <p>paragraph [0024] and formulations E, F, G</p> <p>paragraph [0031]</p>
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<p>naphthotriazole; 2-mercaptobenzimidazole; 5-aminotetrazole; 5-amino-1,3,4-thiadiazole-2-thiol; 2,4-diamino-6-methyl-1,3,5-triazine; triazine; methyltetrazole; 1,5-pentamethylenetetrazole; 1-phenyl-5-mercaptotetrazole; diaminomethyltriazine; imidazoline thione; 4-methyl-4H-1,2,4-triazole-3-thiol; 5-amino-1,3,4-thiadiazole-2-thiol; tritoyl phosphate; indiazole; adenine; salicylamide; iminodiacetic acid; benzoguanamine; thiocyanuric acid; anthranilic acid; 3-mercaptopropanol; and combinations thereof, and</p> <p>wherein the oxirane species comprises a species selected from the group consisting of: oxirane, methyl-, polymer with oxirane, ether with 2,2'-(oxidoimino)bis(ethanol) (2:1), N-(3(C9-11-isoalkyloxy)propyl)derivatives, C<sub>10</sub>-rich; and oxirane, methyl-, polymer with oxirane, mono(octylphenyl)ether.</p>	<p>formulations E, F, G</p>
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## GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The following grounds of rejection are to be reviewed in this appeal:

- Whether claims 1-2, 4-5, 10, 15, 19-20 and 56 are unpatentable under 35 U.S.C. §103(a) over Koito et al. (U.S. Patent Application Publication No. 20030130147) in view of En et al. (U.S. Patent Application Publication No. 20040134682) and Sato et al. (U.S. Patent No. 5,849,467).
- Whether claims 1, 4-6, 10, 15, 17-21, 53 and 56 are unpatentable under the judicially created doctrine of obviousness-type double patenting over co-pending application No. 10/389,214 in view of En et al. (U.S. Patent Application Publication No. 20040134682).

## ARGUMENT

1. Whether claims 1-2, 4-5, 10, 15, 19-20 and 56 are unpatentable under 35 U.S.C. §103(a) over Koito et al. (U.S. Patent Application Publication No. 20030130147) (hereinafter Koito) in view of En et al. (U.S. Patent Application Publication No. 20040134682) (hereinafter En) and Sato et al. (U.S. Patent No. 5,849,467) (hereinafter Sato). Representative claims of the group include claim 1 and the species under examination is Formulation G in claim 7.

### Claim 1

Applicants' claim 1 recites the following:

A cleaning composition comprising

a quaternary base,  
at least one alkali or alkaline earth base, and  
at least one additional component selected from the group  
consisting of a chelator, an oxirane species, and combinations  
thereof,

wherein said chelator comprises a species selected from the  
group consisting of: 1-amino-1,2,4-triazole; 1-amino-1,2,3-  
triazole; 1-amino-5-methyl-1,2,3-triazole; 3-mercapto-1,2,4-  
triazole; 3-isopropyl-1,2,4-triazole; naphthotriazole; 2-  
mercaptobenzimidazole; 5-aminotetrazole; 5-amino-1,3,4-  
thiadiazole-2-thiol; 2,4-diamino-6-methyl-1,3,5-triazine;  
triazine; methyltetrazole; 1,5-pentamethylenetetrazole; 1-phenyl-  
5-mercaptotetrazole; diaminomethyltriazine; imidazoline thione;  
4-methyl-4H-1,2,4-triazole-3-thiol; 5-amino-1,3,4-thiadiazole-2-  
thiol; tritolyl phosphate; indiazole; adenine; salicylamide;  
iminodiacetic acid; benzoguanamine; thiocyanuric acid;  
anthranilic acid; 3-mercaptopropanol; and combinations thereof,  
and

wherein the oxirane species comprises a species selected from  
the group consisting of: oxirane, methyl-, polymer with oxirane,  
ether with 2,2'-(oxidoimino)bis(ethanol) (2:1), N(-3(C9-11-  
isoalkyloxy)propyl)derivatives, C<sub>10</sub>-rich; and oxirane, methyl-,  
polymer with oxirane, mono(octylphenyl)ether.

According to the Office, Koito discloses, teaches and suggests a cleaning composition comprising

a quaternary base and adenine for the removal of unwanted material. The Office further stated that Koito does not specify the inclusion of an alkali base but “it is known in the art at the time the invention was made to obtain and use an alkali base for the advantage of providing a sufficient alkalinity and stripping power,” as evidenced by En and Sato. As such, according to the Office:

“[s]ince the above references are all related to cleaners, removers and/or strippers, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use or cite potassium hydroxide alkaline agent for a reasonable expectation of sufficiently providing an additional alkalinity and stripping power to one having ordinary skill in the art.” (emphasis added)

It is well established in the law that if the proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984). Under Graham, and as required by MPEP §§2111 and 2141.02, the Office must ascertain the differences between the claimed invention and the prior art, and must consider both the invention and the prior art as a whole. Thus, certain individual features from the references may not be arbitrarily chosen (while equally arbitrarily discarding other disclosed features) to merely lump together disparate features of different references as a mosaic in an attempt to meet the features of the rejected claims.

Koito relates to a residue stripping composition comprising at least one alcohol having an ether bond in the molecule thereof as component (a), and an anticorrosive as component (b). The Koito composition may further include organic or inorganic weak acids as component (c), water as component (d), and amines as component (e), wherein tetramethylammonium hydroxide (TMAH) is enumerated as an amine. The Koito compositions are disclosed to comprise 0.001 to 15% by weight of component (b), 0 to 15% by weight of component (c), 2 to 70 % by weight of component (d), 1 to 40% by weight of component (e), and 30% by weight or more component (a) as the balance (see, Koito, paragraph [0035]). Notably, Koito recites:

“[h]owever, it was found that if the components to elevate stripping functions were excessively added, and the pH of the stripping composition was 6 or below, or 12 or above, a certain type of low-dielectric films were damaged.” (see, Koito, paragraph [0016]) (emphasis added)



Evidence of the poor performance as the pH approaches or exceeds pH 12 can be seen in Table 1 of Koito, recreated below for ease of discussion, which compares the residue stripping performance, the copper corrosion resistance and dielectric (SiOC-based) film damage of eleven different compositions, wherein the amine present is 2-methylaminoethanol (a weak base). When reading the results of Table 1, “A” corresponds to no observed residue, corrosion or damage; “B” corresponds to little residue, corrosion or damage; “C” corresponds to a small quantity of residue, corrosion or damage; and “D” corresponds to a large quantity of residue, corrosion or damage.

TABLE 1

Stripping agent No.	Composition (wt %)						Cu			
	a) THFA	a) DEGB	b) Adenine	d) Water	e) 2MAE	c) Lactic acid	pH	Strippability; Via bottom	corrosion resistance	Film damage; SiOC-based
1	43.0		0.030	18.5	25.0	13.5	10.0	A	C	B
2	67.0		0.030	19.0	6.0	8.0	8.6	A	A	A
3	75.0		0.030	19.0	6.0	0.0	11.0	C	C	B
4	71.0		0.030	19.0	6.0	4.0	10.0	B	B	B
5	90.0		0.030	4.0	4.0	1.0	10.3	C	A	A
6	33.0		0.030	60.0	3.0	4.0	6.6	B	B	B
7	23.0		0.030	70.0	3.0	4.0	6.2	C	C	B
8	67.0		0.001	19.0	6.0	8.0	8.6	A	C	A
9	67.0		1.000	18.0	6.0	8.0	8.5	A	A	A
10		65.0	0.030	20.5	10.0	4.5	10.0	A	A	C
11		75.5	0.030	10.5	10.0	4.0	10.0	A	A	C

THFA: Tetrahydrofurfuryl alcohol

DEGB: Diethylene glycol monobutyl ether

2MAE: 2-Methylaminoethanol

Of particular interest in Table 1 is stripping agents Nos. 2-4, containing *inter alia* 6.0 wt% 2-methylaminoethanol (2MAE), and having 8.0 wt%, 0.0 wt% and 4.0 wt% lactic acid to yield compositions having pH values of 8.6, 11.0 and 10.0, respectively. Stripping agents Nos. 2-4 evidence the worsening results with increasing pH. Further, stripping agents Nos. 2-4 evidence what can happen when the buffer of the composition (e.g., a composition including lactic acid) is limited or has been broken. When the number of moles of lactic acid exceeded the number of moles of 2MAE, the pH of the composition was about 8.6 and the stripping, corrosion and damage results are excellent (No. 2, pH 8.6). As less lactic acid was available, the pH started to increase (become more basic) and the results become less favorable (No. 4, pH 10.0) and eventually unacceptable (No. 3, pH 11.0).

According to the Office, Koito discloses a composition including a quaternary base and adenine.

As introduced hereinabove, Koito discloses that the concentration range for amines (i.e., the quaternary base, component (e)) is 1 wt% to 40 wt%. The Office has indicated that it would be obvious to the skilled person to include potassium hydroxide, as disclosed in both En and Sato, for a reasonable expectation of sufficiently providing “additional alkalinity and stripping power.” Applicants vigorously disagree.

Initially it is noted that it one skilled in the art would not consider Koito and think that “additional alkalinity”<sup>1</sup> would improve the Koito composition. As shown clearly in Table 1 of Koito, the best results were obtained from compositions having pH values around 8.5 (see, e.g., No.’s 2 and 9) and the results worsened as the pH rose above 10.

Considering Koito as a whole, as the Office must do, the Office is proposing that we start with the Koito composition including tetramethylammonium hydroxide (TMAH) (which Koito teaches should be present in a range from 1 to 40 wt%) and adenine, and add the KOH pursuant to En and Sato. Assuming that the Koito composition includes 1 wt% TMAH, which is a well known strong base, the pH of the Koito composition will be about 13 (see, **Exhibit 3**), which is already higher than the pH Koito states is detrimental to the dielectric material (i.e., above pH 12).

Applicants question, why would one skilled in the art add a second strong base (i.e., KOH) to a composition that already has a pH that is detrimental to the materials on the surface? Clearly, they would **not**. In fact, Koito without the KOH from En or Sato has already been rendered unsatisfactory for its intended purpose based on the Office’s suggestion. Clearly, the combination of Koito with En or Sato will render Koito unsatisfactory for its intended purpose.

The Office could argue that under these circumstances that it would be obvious to lower the concentration of the TMAH in the Koito composition and then add the KOH pursuant to En or Sato. Reviewing the results in Table 1 hereinabove, the best results corresponded to a pH of about 9. To achieve a pH of 9 starting with just TMAH, the formulation would have to have a TMAH concentration of  $9.1 \times 10^{-5}$  wt.%. An equally small concentration of KOH would have to be added to keep the pH below 12 (and preferably below 10). The low number of moles of base are likely to be absorbed by the other components present in the Koito composition such that no hydroxide ions are available for stripping removal. This would negate the Office’s contention

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<sup>1</sup> Applicants also submit that the terms alkalinity and basicity are not interchangeable but arguing this fact is not necessary herein.

that it would be obvious to include potassium hydroxide, as disclosed in both En and Sato, in Koito for a reasonable expectation of sufficiently providing “additional . . . stripping power.”

The Office could argue that the Koito composition could be buffered, as admittedly disclosed in Koito. Applicants have used the program “Buffer Maker” (see, **Exhibit 4**) to demonstrate that even if the Koito composition including TMAH was buffered, the buffer capacity at pH values in a range from 8 to 11 is so low that negligible amounts of KOH will drive the pH above 12, again rendering Koito unsatisfactory for its intended purpose.

Referring to **Exhibit 5**, four different preparations of a lactic acid-TMAH buffer are shown at pH 8, 9, 10, and 11. Referring to the buffer capacity versus pH plot at the bottom, it can be seen that the pH of the 8, 9, 10, and 11 buffers is expected to rise to approximately 11.89, 11.89, 11.90 and 11.94 after the addition of only 10 mmol/L of strong monoprotic base (e.g., KOH). For the record, 10 mmol/L of KOH is equivalent to 0.056 wt% KOH. In other words, the skilled practitioner would have to add much less than 0.056 wt% KOH to maintain the pH below 12 to not render Koito unsatisfactory for its intended purpose. Applicants question, where is the motivation, teaching or suggestion to add a negligible amount of a second strong base to the Koito composition when the Koito composition actually performs better at pH values in a range from 8 and 10 and when this pH can be readily achieved with the first strong base (TMAH)?

Considered *in toto*, applicants claimed invention is not obvious over Koito in view of En or Sato. One skilled in the art considering Koito who opts to use the quaternary base, which is already a strong base, would not look to En or Sato and think that adding a second strong base will increase the stripping power. Instead, said skilled person would recognize that a second strong base would push the pH up to values that would render the Koito composition unsatisfactory for its intended purpose.

Respectfully, it appears that the Office, **with hindsight**, has discounted the teaching in Koito relating to pH values and dielectric material, and concluded that the current invention is obvious over Koito in view of En and Sato. This is legally impermissible.

In conclusion and in light of the above discussion, Applicants submit that the Office has not met its burden of establishing a *prima facie* case of obviousness. Accordingly, Applicants

respectfully request that the rejection of claims 1-2, 4-5, 10, 15, 19-20 and 56 be reversed and all claims found patentable.

**2. Whether claims 1, 4-6, 10, 15, 17-21, 53 and 56 are unpatentable under the judicially created doctrine of obviousness-type double patenting over co-pending application No. 10/389,214 in view of En et al. (U.S. Patent Application Publication No. 20040134682) (hereinafter En). Representative claims of the group include claim 1 and the species under examination is Formulation G in claim 7.**

### **Claim 1**

Applicants' claim 1 recites the following:

1. A cleaning composition comprising

a quaternary base,  
at least one alkali or alkaline earth base, and  
at least one additional component selected from the group  
consisting of a chelator, an oxirane species, and combinations  
thereof,

wherein said chelator comprises a species selected from the  
group consisting of: 1-amino-1,2,4-triazole; 1-amino-1,2,3-  
triazole; 1-amino-5-methyl-1,2,3-triazole; 3-mercapto-1,2,4-  
triazole; 3-isopropyl-1,2,4-triazole; naphthotriazole; 2-  
mercaptobenzimidazole; 5-aminotetrazole; 5-amino-1,3,4-  
thiadiazole-2-thiol; 2,4-diamino-6-methyl-1,3,5-triazine;  
triazine; methyltetrazole; 1,5-pentamethylenetetrazole; 1-phenyl-  
5-mercaptotetrazole; diaminomethyltriazine; imidazoline thione;  
4-methyl-4H-1,2,4-triazole-3-thiol; 5-amino-1,3,4-thiadiazole-2-  
thiol; tritoyl phosphate; indiazole; adenine; salicylamide;  
iminodiacetic acid; benzoguanamine; thiocyanuric acid;  
anthranilic acid; 3-mercaptopropanol; and combinations thereof,  
and

wherein the oxirane species comprises a species selected from  
the group consisting of: oxirane, methyl-, polymer with oxirane,  
ether with 2,2'-(oxidoimino)bis(ethanol) (2:1), N-(3(C9-11-  
isoalkyloxy)propyl)derivatives, C<sub>10</sub>-rich; and oxirane, methyl-,  
polymer with oxirane, mono(octylphenyl)ether.

Claim 7, formulation G recites:

7. The cleaning composition of claim 1, selected from the group consisting of Formulations A-C<sup>2</sup>, wherein all percentages are by weight, based on the total weight of the formulation: []

Formulation G

5.36% benzyltrimethylammonium hydroxide  
0.28% potassium hydroxide  
10.0% tetramethylene sulfone  
10.0% di(ethyleneglycol)butyl ether  
0.10% oxirane, methyl-, polymer with oxirane,  
mono(octylphenyl)ether  
0.08% 2-mercaptobenzimidazole  
74.18% water . . . .

In the February 24, 2009 Final Office Action, the Office stated that claims 1, 4-6, 10, 15, 17-21, 53 and 56 are:

“unpatentable over claims 4-6, 12-17, 33-36, 39, 42-47 as amended on 01/10/08 of co-pending application No. 10/389,214 (and its teachings and suggestions in the specification on at least paragraphs 9, 12, 13, 17, 18, 21, 23, Examples 2, 4 and 5. However, applicants, assignee and their counsel may and should disagree, urge and state on and for the record that each of the claims as originally filed is self sufficient. There has not been and will not be relied on any embodiment and any application for any purpose) considered in view of En et al ((2004/0134682) as a secondary reference).

Applicants in the applied broad claims with “comprising” and the broad teachings and/or suggestion in their specification are related to a cleaning composition containing chemical ingredients and their amounts as those in the instant claims. But, applicants in the applied broad claims with “comprising” and the broad teachings and/or suggestion do not specify an alkali base. However, it was known in the art at the time the invention was made to obtain and use an alkali base for the advantage of providing a sufficient alkalinity and stripping power. Evidence can be seen in at least En et al. at paragraph 0550, 0600, 0612, 0620, 0653, 0714, 0754 and 0774.” (see the February 24, 2009 Office Action, pages 5 and 6).

Applicants traverse such rejection.

The Office, commenting on Applicants response to the (same) rejection presented in the May 6,

2008 Office Action, specifically recited:

“(1) Applicants look at the applied claim 7 alone with their arguments. It is insufficient. The record shows that the applied compounds are also on [sic] paragraph 18 of the applied specification.” (see, the September 15, 2008 Office Action, page 6, point (1))

To reiterate our response to the May 6, 2008 Office Action, as a matter of law, the test for obviousness-type double patenting is whether the claimed invention of the subject application would have been obvious from the subject matter of the claims in the cited reference, in light of the prior art. *See, In re Longi*, 225 U.S.P.Q. 645 (Fed. Cir. 1985). *See also, Geneva Pharmaceuticals Inc. v. GlaxoSmithKline PLC*, 68 USPQ2d 1865, 1875 (Fed. Cir. 2003) (“[b]ecause nonstatutory double patenting compares earlier and later claims, an earlier patent's disclosure is not available to show nonstatutory double patenting.” (citing *Gen. Foods Corp. v. Studiengesellschaft Kohle mbH*, 972 F.2d 1272, 1281-82, 23 USPQ2d 1839 (Fed. Cir. 1992))). Not only does the Office admit that it is resorting to teachings in the specification of application No. 10/389,214 (hereinafter the ‘214 application) when establishing the rejection,<sup>2</sup> but the Office is also admitting that “the record shows that the applied compounds are also on [sic] paragraph 18 of the applied specification [of the ‘214 application].” **The courts have made it clear** – the Office must NOT refer to the specification of the ‘214 application in an attempt to establish a rejection based on obviousness-type double patenting, only the claims. Still the Office continues to reject applicants’ claims while completely ignoring the holding provided by the United States Court of Appeals for the Federal Circuit.

The Office relies on En as a secondary reference “for the teachings and/or suggestions of a use of an alkali base.” According to the Office, “[a]pplicants have missed interpretations of the rejection on the record and looked at a different direction in the applied reference than those on the record” (see, the September 15, 2008 Office Action, the sentence bridging pages 6-7). Applicants vigorously disagree.

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<sup>2</sup> “Claims 1, 2, 4-7, 10, 14-15, 17-21 and 53-57 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-7, 9-17, 21-22 and 33-48 as amended on 03/31/08 of co-pending application No. 10/389,214 (and its teachings and suggestions in the specification on at least paragraphs 9, 12, 13, 17, 18, 21, 23, Examples 2, 4 and 5).” (see, the September 15, 2008 Office Action, the sentence bridging pages 3-4)

As introduced hereinabove, the “key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious.” In the present case, the Office has admitted on multiple occasions that it has resorted to the specification of the ‘214 application in an attempt to establish a *prima facie* case of judicially created doctrine of obviousness-type double patenting. Applicants have not “missed interpretations” or “looked at a different direction,” but rather have transferred the burden back to the Office to establish a legally permissible rejection of obviousness-type double patenting. By legally permissible, the Office must clearly articulate why the presently pending claims are unpatentable over the claims of the primary ‘214 application in view of the En reference. Since the Office has not produced a *prima facie* case of obviousness-type double patenting, the applicant is under no obligation to respond further to this rejection.

As noted, the rejection is a provisional rejection and as such, if the obviousness-type double patenting rejection is the only rejection remaining in the presently pending case AND the presently pending claims are an obvious variation of the invention defined in U.S. Patent Application No. 10/389,214 (which can only be objectively assessed when the only rejection remaining in the presently pending case is the obviousness-type double patenting rejection), then applicants will submit a terminal disclaimer.

Applicants respectfully request withdrawal of the rejection of claims 1, 4-6, 10, 15, 17-21, 53 and 56 under the judicially created doctrine of obviousness-type double patenting.

### **CONCLUSION**

For the reasons presented above, the rejections of claims 1, 2, 4-6, 10, 15, 17-21, 53 and 56 should be reversed, in view of the patentable character of the subject matter of applicants’ claims. The Office’s rejections have all been predicated on speculative construction of references that do not provide motivation to be so combined. Accordingly, no basis of *prima facie* obviousness of applicants’ claimed invention is presented by the references variously asserted by the Office. The Board is correspondingly requested to reverse all of the Office’s rejections of claims 1, 2, 4-6, 10, 15, 17-21, 53 and 56 herein appealed.

Respectfully submitted,



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**Appendices:**

Claims Appendix [13 pages]

Evidence Appendix [28 pages]

Related Proceedings Appendix [1 page]



## CLAIMS APPENDIX

1. (Previously Presented) A cleaning composition comprising a quaternary base, at least one alkali or alkaline earth base, and at least one additional component selected from the group consisting of a chelator, an oxirane species, and combinations thereof, wherein said chelator comprises a species selected from the group consisting of: 1-amino-1,2,4-triazole; 1-amino-1,2,3-triazole; 1-amino-5-methyl-1,2,3-triazole; 3-mercapto-1,2,4-triazole; 3-isopropyl-1,2,4-triazole; naphthotriazole; 2-mercaptobenzimidazole; 5-aminotetrazole; 5-amino-1,3,4-thiadiazole-2-thiol; 2,4-diamino-6-methyl-1,3,5-triazine; triazine; methyltetrazole; 1,5-pentamethylenetetrazole; 1-phenyl-5-mercaptotetrazole; diaminomethyltriazine; imidazoline thione; 4-methyl-4H-1,2,4-triazole-3-thiol; 5-amino-1,3,4-thiadiazole-2-thiol; tritoyl phosphate; indiazole; adenine; salicylamide; iminodiacetic acid; benzoguanamine; thiocyanuric acid; anthranilic acid; 3-mercaptopropanol; and combinations thereof, and wherein the oxirane species comprises a species selected from the group consisting of: oxirane, methyl-, polymer with oxirane, ether with 2,2'-(oxidoimino)bis(ethanol) (2:1), N-(3(C9-11-isoalkyloxy)propyl)derivatives, C<sub>10</sub>-rich; and oxirane, methyl-, polymer with oxirane, mono(octylphenyl)ether.

2. (Original) The cleaning composition of claim 1, which is devoid of hydroxylamine therein.

3. (Cancelled)

4. (Previously Presented) The cleaning composition of claim 1, comprising the following components:

- 0.1 - 40.0 weight % organic quaternary base;
- 0.01-5 weight % alkali or alkaline earth base;
- 0-80 weight % solvent(s) and/or amine(s);
- 0-5 weight % surfactant;
- 0 – 10 weight % chelator/passivation agent; and
- 0 – 98 weight % water,

wherein percentages of the components are percentages by weight, based on total weight of the composition, and wherein the total of the weight percentages of such components of the composition does not exceed 100 weight %.

5. (Previously Presented) The cleaning composition of claim 1, including at least one additional ingredient selected from the group consisting of stabilizers, dispersants, anti-oxidants, fillers, penetration agents, adjuvants, additives, and excipients.

6. (Previously Presented) The cleaning composition of claim 1, comprising the following components:

- 2-15 weight % organic quaternary base;
- ~0.01-2 weight % alkali or alkaline earth base;
- 0-50 weight % solvent(s) and/or amine(s);
- ~0.01-2 weight % surfactant;
- 0 – 5 weight % chelator/passivation agent; and
- 40 – 95 weight % water,

wherein percentages of the components are percentages by weight, based on total weight of the composition, and wherein the total of the weight percentages of such components of the composition does not exceed 100 weight %.

7. (Previously Presented) The cleaning composition of claim 1, selected from the group consisting of Formulations A-C<sup>2</sup>, wherein all percentages are by weight, based on the total weight of the formulation:

#### Formulation A

5.36% benzyltrimethylammonium hydroxide  
0.28% potassium hydroxide  
3.0% 4-methylmorpholine N-oxide  
0.30% polyoxyethylene(150) dinonylphenyl ether  
0.08% 2-mercaptobenzimidazole  
91.0% water

#### Formulation B

5.36% benzyltrimethylammonium hydroxide  
0.28% potassium hydroxide  
3.0% 4-methylmorpholine N-oxide  
0.30% polyoxyethylene(150) dinonylphenyl ether  
0.20% 5-amino-1,3,4-thiadiazole-2-thiol  
90.86% water

#### Formulation C

3.60% benzyltrimethylammonium hydroxide

0.27% potassium hydroxide  
 3.5% 4-methylmorpholine N-oxide  
 15.0% 4-(3-aminopropyl)morpholine  
 0.30% polyoxyethylene(150) dinonylphenyl ether  
 0.08% 2-mercaptobenzimidazole  
 77.25% water

#### Formulation D

5.36% benzyltrimethylammonium hydroxide  
 0.28% potassium hydroxide  
 20.0% dimethyl sulfoxide  
 0.08% 2-mercaptobenzimidazole  
 74.28% water

#### Formulation E

5.36% benzyltrimethylammonium hydroxide  
 0.28% potassium hydroxide  
 10.0% tetramethylene sulfone  
 0.30% oxirane, methyl-, polymer with oxirane, ether with 2,2'-(oxidoimino)bis(ethanol) (2:1),  
           N(-3(C9-11-isoalkyloxy)propyl)derivatives, C<sub>10</sub>-rich  
 0.08% 2-mercaptobenzimidazole  
 83.98% water

#### Formulation F

5.36% benzyltrimethylammonium hydroxide  
 0.28% potassium hydroxide  
 10.0% di(ethyleneglycol)butyl ether  
 10.0% 2-(2-dimethylamino)ethoxy)ethanol  
 0.30% oxirane, methyl-, polymer with oxirane, ether with 2,2'-(oxidoimino)bis(ethanol) (2:1),  
           N(-3(C9-11-isoalkyloxy)propyl)derivatives, C<sub>10</sub>-rich  
 74.06% water

#### Formulation G

5.36% benzyltrimethylammonium hydroxide  
 0.28% potassium hydroxide  
 10.0% tetramethylene sulfone  
 10.0% di(ethyleneglycol)butyl ether  
 0.10% oxirane, methyl-, polymer with oxirane, mono(octylphenyl)ether  
 0.08% 2-mercaptobenzimidazole  
 74.18% water,

#### Formulation H

benzyltrimethylammonium hydroxide, 40% aqueous solution	9.0 %
potassium hydroxide, 45% aqueous solution	0.6 %
N-methylmorpholine oxide, 50% aqueous solution	7.0 %
dinonylphenol ethoxylate, 7% aqueous solution	4.3 %

2-mercaptobenzimidazole	0.1 %
aminopropylmorpholine	20.0 %
water	59.02 %

#### Formulation I

benzyltrimethylammonium hydroxide, 40% aqueous solution	9.0 %
potassium hydroxide, 45% aqueous solution	0.6 %
N-methylmorpholine oxide, 50% aqueous solution	7.0 %
dinonylphenol ethoxylate, 7% aqueous solution	4.3 %
2-mercaptobenzimidazole	0.1 %
aminopropylmorpholine	15.0 %
water	64.02 %

#### Formulation J

benzyltrimethylammonium hydroxide, 40% aqueous solution	9.0 %
potassium hydroxide, 45% aqueous solution	0.6 %
N-methylmorpholine oxide, 50% aqueous solution	7.0 %
dinonylphenol ethoxylate, 7% aqueous solution	4.3 %
2-mercaptobenzimidazole	0.1 %
aminopropylmorpholine	10.0 %
water	69.02 %

#### Formulation K

benzyltrimethylammonium hydroxide, 40% aqueous solution	13.4 %
N-methylmorpholine oxide, 50% aqueous solution	7.0 %
KOH, 45% aqueous solution	0.6 %
2-mercaptobenzimidazole	0.08 %
dinonylphenol polyoxyethylene	0.3 %
water	78.62 %

#### Formulation L

benzyltrimethylammonium hydroxide, 40% aqueous solution	13.4 %
N-methylmorpholine oxide, 50% aqueous solution	7.0 %
KOH, 45% aqueous solution	1.2 %
2-mercaptobenzimidazole	0.08 %
dinonylphenol polyoxyethylene	0.3 %
water	78.02 %

#### Formulation M

tetramethylammonium hydroxide, 25% aqueous solution	5.85 %
N-methylmorpholine oxide, 50% aqueous solution	7.0 %
KOH, 45% aqueous solution	1.2 %
2-mercaptobenzimidazole	0.08 %
dinonylphenol polyoxyethylene	0.3 %
water	85.57 %

#### Formulation N

tetramethylammonium hydroxide, 25% aqueous solution	2.93 %
N-methylmorpholine oxide, 50% aqueous solution	7.0 %
KOH, 45% aqueous solution	1.2 %
2-mercaptobenzimidazole	0.08 %
dinonylphenol polyoxyethylene	0.3 %
water	88.49 %

#### Formulation O

benzyltrimethylammonium hydroxide, 40% aqueous solution	7.2 %
N-methylmorpholine oxide, 50% aqueous solution	7.0 %
KOH, 45% aqueous solution	0.6 %
2-mercaptobenzimidazole	0.08 %
dinonylphenol polyoxyethylene	0.3 %
water	84.82 %

#### Formulation P

benzyltrimethylammonium hydroxide, 40% aqueous solution	3.6 %
N-methylmorpholine oxide, 50% aqueous solution	7.0 %
KOH, 45% aqueous solution	1.2 %
2-mercaptobenzimidazole	0.08 %
dinonylphenol polyoxyethylene	0.3 %
water	87.82 %

#### Formulation Q

benzyltrimethylammonium hydroxide, 40% aqueous solution	3.6 %
N-methylmorpholine oxide, 50% aqueous solution	7.0 %
KOH, 45% aqueous solution	0.6 %
2-mercaptobenzimidazole	0.08 %
dinonylphenol polyoxyethylene	0.3 %
water	88.42 %

#### Formulation R

benzyltrimethylammonium hydroxide, 40% aqueous solution	7.2 %
N-methylmorpholine oxide, 50% aqueous solution	7.0 %
KOH, 45% aqueous solution	0.3 %
2-mercaptobenzimidazole	0.08 %
dinonylphenol polyoxyethylene	0.3 %
water	85.12 %,

#### Formulation S

benzyltrimethylammonium hydroxide, 40% aqueous solution	22.26 %
Potassium hydroxide, 45% aqueous solution	0.6 %
2-mercaptobenzimidazole	0.08 %
methyldiethanolamine	2.33 %
phosphoric acid (86 %)	1.69 %

3-amino-5-mercapto-1,2,4-triazole	1.0 %
water	72.04 %

#### Formulation T

benzyltrimethylammonium hydroxide, 40% aqueous solution	22.26 %
Potassium hydroxide, 45% aqueous solution	0.6 %
2-mercaptobenzimidazole	0.08 %
methyldiethanolamine	2.33 %
phosphoric acid (86 %)	1.69 %
4-methyl-2-phenyl-imidazole	1.0 %
water	72.04 %

#### Formulation U

benzyltrimethylammonium hydroxide, 40% aqueous solution	22.26 %
Potassium hydroxide, 45% aqueous solution	0.6 %
2-mercaptobenzimidazole	0.08 %
methyldiethanolamine	2.33 %
phosphoric acid (86 %)	1.69 %
2-mercaptothiazoline	1.0 %
water	72.04 %

#### Formulation V

benzyltrimethylammonium hydroxide, 40% aqueous solution	22.26 %
Potassium hydroxide, 45% aqueous solution	0.6 %
2-mercaptobenzimidazole	0.08 %
methyldiethanolamine	2.33 %
phosphoric acid (86 %)	1.69 %
8-hydroxyquinoline	1.0 %
water	72.04 %

#### Formulation W

benzyltrimethylammonium hydroxide, 40% aqueous solution	22.26 %
Potassium hydroxide, 45% aqueous solution	0.6 %
2-mercaptobenzimidazole	0.08 %
methyldiethanolamine	2.33 %
phosphoric acid (86 %)	1.69 %
1-phenyl-2-tetrazoline-5-thione	1.0 %
water	72.04 %

#### Formulation X

benzyltrimethylammonium hydroxide, 40% aqueous solution	22.26 %
Potassium hydroxide, 45% aqueous solution	0.6 %
2-mercaptobenzimidazole	0.08 %
methyldiethanolamine	2.33 %
phosphoric acid (86 %)	1.69 %
gallic acid	1.0 %
water	72.04 %

#### Formulation Y

benzyltrimethylammonium hydroxide, 40% aqueous solution	22.26 %
Potassium hydroxide, 45% aqueous solution	0.6 %
2-mercaptobenzimidazole	0.08 %
methyldiethanolamine	2.33 %
phosphoric acid (86 %)	1.69 %
salicylic acid	1.0 %
water	72.04 %

#### Formulation Z

benzyltrimethylammonium hydroxide, 40% aqueous solution	22.26 %
Potassium hydroxide, 45% aqueous solution	0.6 %
2-mercaptobenzimidazole	0.08 %
methyldiethanolamine	2.33 %
phosphoric acid (86 %)	1.69 %
ascorbic acid	1.0 %
water	72.04 %

#### Formulation A<sup>2</sup>

benzyltrimethylammonium hydroxide, 40% aqueous solution	7.2 %
Potassium hydroxide, 45% aqueous solution	0.6 %
2-mercaptobenzimidazole	0.08 %
aminopropyl morpholine	10 %
4-methyl-2-phenyl-imidazole	1.0 %
water	81.12 %

#### Formulation B<sup>2</sup>

benzyltrimethylammonium hydroxide, 40% aqueous solution	7.2 %
Potassium hydroxide, 45% aqueous solution	0.6 %
2-mercaptobenzimidazole	0.08 %
aminopropyl morpholine	10 %
4-methyl-2-phenyl-imidazole	0.5 %
water	81.62 %

#### Formulation C<sup>2</sup>

benzyltrimethylammonium hydroxide, 40% aqueous solution	7.2 %
Potassium hydroxide, 45% aqueous solution	0.6 %
2-mercaptobenzimidazole	0.08 %
aminopropyl morpholine	10 %
4-methyl-2-phenyl-imidazole	1.0 %
water	81.02 %
dinonylphenol polyoxyethylene	0.1 %.

8. (Cancelled)

9. (Cancelled)

10. (Previously Presented) The cleaning composition of claim 1, wherein the alkali base comprises potassium hydroxide.

11.-13. (Cancelled)

14. (Previously Presented) The cleaning composition of claim 1, wherein the chelator comprises 2-mercaptobenzimidazole.

15. (Previously Presented) The cleaning composition of claim 1, wherein the chelator is present in an amount greater than about 0.08 wt.%, based on the total weight of the composition.

16. (Cancelled)

17. (Previously Presented) The composition of claim 1, further comprising a surfactant.

18. (Original) The composition of claim 17, wherein the surfactant comprises a surfactant species selected from the group consisting of: fluoroalkyl surfactants; polyethylene glycols; polypropylene glycols; polyethylene glycol ethers; polypropylene glycol ethers; carboxylic acid salts; dodecylbenzenesulfonic acid and salts thereof; polyacrylate polymers; dinonylphenyl polyoxyethylene; silicone polymers; modified silicone polymers; acetylenic diols; modified acetylenic diols, alkylammonium salts; modified alkylammonium salts; and combinations of two or more of the foregoing.

19. (Previously Presented) The composition of claim 1, further comprising a co-solvent.

20. (Original) The composition of claim 19, wherein the co-solvent comprises a co-solvent species selected from the group consisting of: amines; glycols; glycol ethers; polyglycol ethers; and combinations of two or more of the foregoing.

21. (Original) The composition of claim 19, wherein the co-solvent comprises a co-solvent species selected from the group consisting of: dimethyldiglycolamine; 1,8-diazabicyclo[5.4.0]undecene; aminopropylmorpholine; triethanolamine; methylethanolamine; diethylene glycol; propylene glycol; neopentyl glycol; hydroxyethylmorpholine;



aminopropylmorpholine; di(ethylene glycol)monoethyl ether; di(propylene glycol)propyl ether; ethylene glycol phenyl ether; di(propylene glycol) butyl ether; butyl carbitol; polyglycol ethers; and combinations of two or more of the foregoing.

22. (Cancelled)

23. (Cancelled)

24. (Withdrawn) A method of removing photoresist and/or SARC material from a substrate having said material thereon, said method comprising contacting the substrate with a cleaning composition for sufficient time to at least partially remove said material from the substrate, wherein the cleaning composition comprises a quaternary base, at least one alkali or alkaline earth base, and at least one additional component selected from the group consisting of a chelator, an oxirane species, and combinations thereof, wherein said chelator comprises a species selected from the group consisting of: 1-amino-1,2,4-triazole; 1-amino-1,2,3-triazole; 1-amino-5-methyl-1,2,3-triazole; 3-mercapto-1,2,4-triazole; 3-isopropyl-1,2,4-triazole; naphthotriazole; 2-mercaptobenzimidazole; 5-aminotetrazole; 5-amino-1,3,4-thiadiazole-2-thiol; 2,4-diamino-6-methyl-1,3,5-triazine; triazine; methyltetrazole; 1,5-pentamethylenetetrazole; 1-phenyl-5-mercaptotetrazole; diaminomethyltriazine; imidazoline thione; 4-methyl-4H-1,2,4-triazole-3-thiol; 5-amino-1,3,4-thiadiazole-2-thiol; tritoyl phosphate; indiazole; adenine; salicylamide; iminodiacetic acid; benzoguanamine; thiocyanuric acid; anthranilic acid; 3-mercaptopropanol; and combinations thereof, and wherein the oxirane species comprises a species selected from the group consisting of: oxirane, methyl-, polymer with oxirane, ether with 2,2'-(oxidoimino)bis(ethanol) (2:1), N-(3(C9-11-isoalkyloxy)propyl)derivatives, C<sub>10</sub>-rich; and oxirane, methyl-, polymer with oxirane, mono(octylphenyl)ether.

25. (Withdrawn) The method of claim 24, wherein the substrate comprises a semiconductor device structure.

26. (Withdrawn) The method of claim 24, wherein the material comprises photoresist.

27. (Withdrawn) The method of claim 24, wherein the material comprises SARC material.

28. (Withdrawn) The method of claim 27, wherein the SARC material has been applied to a

semiconductor device structure to minimize reflectivity variations during photolithographic patterning on the semiconductor device structure.

29. (Withdrawn) The method of claim 24, wherein said contacting is carried out for a time of from about 10 to about 45 minutes.

30. (Withdrawn) The method of claim 24, wherein said contacting is carried out at temperature in a range of from about 50°C to about 80°C.

31. (Withdrawn) The method of claim 24, wherein the composition is devoid of hydroxylamine therein.

32. (Cancelled)

33. (Withdrawn) The method of claim 24, wherein the composition comprises the following components:

- 0.1 - 40.0 weight % organic quaternary base;
- 0.01-5 weight % alkali or alkaline earth base;
- 0-80 weight % solvent(s) and/or amine(s);
- 0-5 weight % surfactant;
- 0 – 10 weight % chelator/passivation agent; and
- 0 – 98 weight % water,

wherein percentages of the components are percentages by weight, based on total weight of the composition, and wherein the total of the weight percentages of such components of the composition does not exceed 100 weight %.

34. (Withdrawn) The method of claim 24, wherein the composition includes at least one additional ingredient selected from the group consisting of stabilizers, dispersants, anti-oxidants, fillers, penetration agents, adjuvants, additives, fillers, and excipients.

35. (Withdrawn) The method of claim 24, wherein the composition comprises the following components:

- 2-15 weight % organic quaternary base;
- ~0.01-2 weight % alkali or alkaline earth base;

0-50 weight % solvent(s) and/or amine(s);  
~0.01-2 weight % surfactant;  
0 – 5 weight % chelator/passivation agent; and  
40 – 95 weight % water,

wherein percentages of the components are percentages by weight, based on total weight of the composition, and wherein the total of the weight percentages of such components of the composition does not exceed 100 weight %.

36. (Cancelled).

37. (Cancelled)

38. (Cancelled)

39. (Withdrawn) The method of claim 24, wherein the alkali base comprises potassium hydroxide.

40.-42. (Cancelled)

43. (Withdrawn) The method of claim 24, wherein the chelator comprises 2-mercaptobenzimidazole.

44. (Withdrawn) The method of claim 43, wherein the chelator is present in an amount greater than about 0.08 wt.%, based on the total weight of the composition.

45. (Withdrawn) The method of claim 24, wherein the quaternary base comprises benzyltrimethylammonium hydroxide.

46. (Withdrawn) The method of claim 24, wherein the cleaning composition further comprises a surfactant.

47. (Withdrawn) The method of claim 46, wherein the surfactant comprises a surfactant species selected from the group consisting of: fluoroalkyl surfactants; polyethylene glycols; polypropylene glycols; polyethylene glycol ethers; polypropylene glycol ethers; carboxylic acid

salts; dodecylbenzenesulfonic acid and salts thereof; polyacrylate polymers; dinonylphenyl polyoxyethylene; silicone polymers; modified silicone polymers; acetylenic diols; modified acetylenic diols, alkylammonium salts; modified alkylammonium salts; and combinations of two or more of the foregoing.

48. (Withdrawn) The method of claim 24, wherein the cleaning composition further comprises a co-solvent.

49. (Withdrawn) The method of claim 48, wherein the co-solvent comprises a co-solvent species selected from the group consisting of: amines; glycols; glycol ethers; polyglycol ethers; and combinations of two or more of the foregoing.

50. (Withdrawn) The method of claim 48, wherein the co-solvent comprises a co-solvent species selected from the group consisting of: dimethyldiglycolamine; 1,8-diazabicyclo[5.4.0]undecene; aminopropylmorpholine; triethanolamine; methylethanolamine; diethylene glycol; propylene glycol; neopentyl glycol; hydroxyethylmorpholine; aminopropylmorpholine; di(ethylene glycol)monoethyl ether; di(propylene glycol)propyl ether; ethylene glycol phenyl ether; di(propylene glycol) butyl ether; butyl carbitol; polyglycol ethers; and combinations of two or more of the foregoing.

51. (Cancelled)

52. (Cancelled)

53. (Previously Presented) The cleaning composition of claim 1, wherein the quaternary base comprises an organic quaternary ammonium base.

54. (Previously Presented) The cleaning composition of claim 1, wherein the quaternary base comprises benzyltrimethylammonium hydroxide.

55. (Previously Presented) The cleaning composition of claim 1, wherein the cleaning composition comprises benzyltrimethylammonium hydroxide and potassium hydroxide.

56. (Previously Presented) The cleaning composition of claim 19, wherein the co-solvent comprises a glycol ether.

57. (Previously Presented) The cleaning composition of claim 1 comprising benzyltrimethylammonium hydroxide; potassium hydroxide; tetramethylene sulfone; di(ethyleneglycol)butyl ether; oxirane, methyl-, polymer with oxirane, mono(octylphenyl)ether; 2-mercaptobenzimidazole; and water.

58. (Withdrawn) A method of making a semiconductor device comprising contacting the substrate with the cleaning composition of claim 1 for sufficient time to at least partially remove said material from the substrate.

59. (Previously Presented) The cleaning composition of claim 1, further comprising oxidant.

## EVIDENCE APPENDIX

Applicants submitted a declaration under to 37 CFR § 1.131 on August 17, 2006 in response to the April 13, 2006 Office Action declaring that applicants were in possession of the cleaning compositions disclosed and claimed in the pending application prior to the June 18, 2003 priority date of U.S. Patent Application Publication No. 20040259761 in the name of Yokoi et al. (**Exhibit 1**). The same declaration was submitted on September 10, 2007 in response to the July 9, 2007 Office Action.

Applicants submitted a declaration under to 37 CFR § 1.132 on February 19, 2008 in response to the October 19, 2007 Office Action declaring that applicants were in possession of the cleaning compositions disclosed and claimed in the pending application prior to the February 11, 2004 priority date of U.S. Patent Application Publication No. 20050176603 in the name of Hsu et al. (**Exhibit 2**).

Applicants submit herewith evidence that the pH of a 1 wt% TMAH solution, such as that taught in Koito, is about 13 (**Exhibit 3**).

Applicants submit herewith evidence of the Buffer Maker program utilized to demonstrate that negligible amounts of KOH will drive the pH above 12 (**Exhibit 4**).

Applicants submit herewith four different preparations of a lactic acid-TMAH buffer at pH 8, 9, 10 and 11 (**Exhibit 5**).

## **EXHIBIT 1**

1. THAT we are co-inventors of the subject matter disclosed and elected in United States Patent Application No. 10/792,038 filed March 3, 2004 in the names of Melissa K. Rath, David D. Bernhard, David W. Minsek, Michael B. Korzenski, and Thomas H. Baum and entitled, **"COMPOSITION AND PROCESS FOR POST-ETCH REMOVAL OF PHOTORESIST AND/OR SACRIFICIAL ANTI-REFLECTIVE MATERIAL DEPOSITED ON A SUBSTRATE,"** hereafter referred to as the "Application."
2. THAT the Application relates to compositions and processes for removing photoresist and/or sacrificial anti-reflective coating (SARC) from a substrate having said materials thereon. The elected claims specifically relate to the following composition:



1. A cleaning composition including an active cleaning combination (ACC), wherein said ACC consists of a quaternary base in combination with at least one of alkali and alkaline earth base and said cleaning composition is useful for removing photoresist and/or sacrificial anti-reflective coating (SARC) materials from a substrate having such material(s) thereon.
3. THAT we are aware that the Application has been examined by the United States Patent and Trademark Office and the claims of the Application have been rejected on various grounds including the disclosure of:
  - Yokoi, et al. (U.S. Patent Application Publication No. 2004/0259761) (hereinafter "the Yokoi reference") filed on June 10, 2004, based on U.S. Provisional Application No. 60/479,146, filed June 18, 2003, the content of which is unknown because it was filed in Japanese (hereinafter "the Yokoi Provisional Application").
3. THAT Exhibit A attached herewith includes true and exact copies of pages of David D. Bernhard's and Melissa K. Rath's<sup>1</sup> laboratory notebooks, and that all concepts, experiments and acts disclosed on the laboratory notebook pages were conducted in the United States before the filing date of the Yokoi Provisional Application cited hereinabove.
4. THAT all the dates have been blacked out on the attached laboratory notebook pages but all dates are prior to the date of June 18, 2003, which is the filing date of the Yokoi Provisional Application;<sup>2</sup> that information on the laboratory notebook pages that may not be in the public domain has been redacted; and that every one of the attached laboratory notebook pages (Appendix A) discloses a composition including an active cleaning composition (ACC), wherein said ACC consists of a quaternary base in combination with at least one of alkali and alkaline earth base. Thus, the combination of disclosures described herein, provides ample support for the presently claimed invention.
5. THAT we offer Exhibit A with this Declaration as evidence of the completion and possession of the cleaning compositions disclosed and claimed in the Application prior to the June 18, 2003 date of the Yokoi Provisional Application reference.

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<sup>1</sup> Melissa K. Murphy has reassumed her maiden name "Rath"

<sup>2</sup> assuming that the Yokoi Provisional Application enables the Yokoi reference.

As a below-named declarant, I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements are made with the knowledge that willful false statements, and the like, so made are punishable by fine or imprisonment, or both, under Section 1001 or Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Melissa K. Rath

MELISSA K. RATH

Date

8/14/06

DAVID D. BERNHARD

Date

David Minsek

DAVID W. MINSEK

Date

8/14/06

Michael B. Korzenski

MICHAEL B. KORZENSKI

Date

8/14/06

Thomas H. Baum

THOMAS H. BAUM

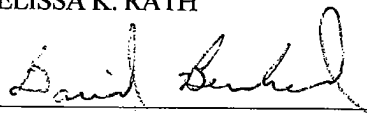
Date

8-14-06

As a below-named declarant, I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements are made with the knowledge that willful false statements, and the like, so made are punishable by fine or imprisonment, or both, under Section 1001 or Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

\_\_\_\_\_  
MELISSA K. RATH

Date \_\_\_\_\_

  
\_\_\_\_\_  
DAVID D. BERNHARD

Date 8/15/06

\_\_\_\_\_  
DAVID W. MINSEK

Date \_\_\_\_\_

\_\_\_\_\_  
MICHAEL B. KORZENSKI

Date \_\_\_\_\_

\_\_\_\_\_  
THOMAS H. BAUM

Date \_\_\_\_\_

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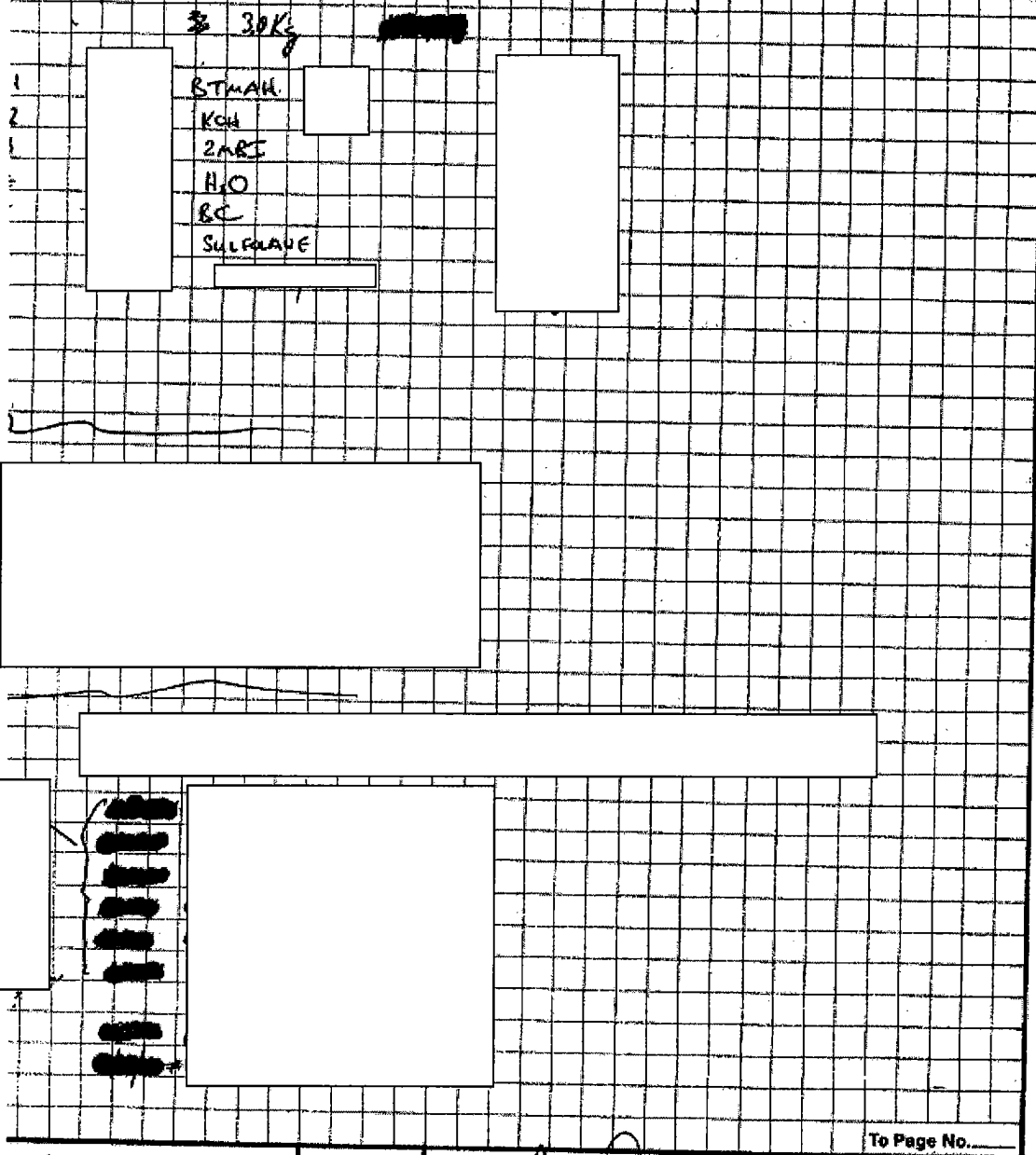
**EXHIBIT A**

Project No. \_\_\_\_\_

Book No. \_\_\_\_\_

TITLE \_\_\_\_\_

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Issued & Understood by me, \_\_\_\_\_

Date \_\_\_\_\_

Invented by \_\_\_\_\_

Date \_\_\_\_\_

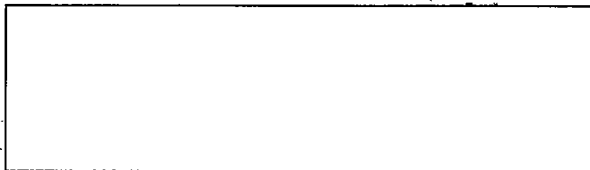
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TITLE

Project No. \_\_\_\_\_  
Book No. 5

From Page No. \_\_\_\_\_

① STIMAN ( ☐ )  
KAT ( ☐ )  
W. M. ( ☐ )  
2-MBT  
Hys



To Page No. \_\_\_\_\_

Witnessed & Understood by me,

*Abigail Abing*

Date

*[Redacted]*

Invented by

*Antonia K. Murphy*

Recorded by

Date

*[Redacted]*

Project No. \_\_\_\_\_

Book No. \_\_\_\_\_

TITLE \_\_\_\_\_

Page No. \_\_\_\_\_

# 1 ~~SECRET~~ w/ ☐ ~~SECRET~~ APMBTMAH ☐ (X)KOH ☐ (X)NMMO ☐ (X)ZMBT ☐ (X)☐ (X)H<sub>2</sub>O

APM

# 2 ~~SECRET~~ w/ ☐ ~~SECRET~~ APMBTMAH ☐ (X)KOH ☐ (X)NMMO ☐ (X)ZMBT ☐ (X)☐ (X)H<sub>2</sub>O

APM

# 3 ~~SECRET~~ - NMMO w/ ☐ ~~SECRET~~ APMBTMAH ☐ (X)KOH ☐ (X)~~SECRET~~ZMBT ☐ (X)DM-970 ☐ (X)H<sub>2</sub>O

APM

To Page No. \_\_\_\_\_

Inspected &amp; Understood by me, \_\_\_\_\_

Date \_\_\_\_\_

Invented by \_\_\_\_\_

Date \_\_\_\_\_

## **EXHIBIT 2**



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**In re United States Patent Application of:**

**Docket No.:** 020732-97.668  
(7493)

**Applicants:** RATH, Melissa K., et al.

Conf. No.: 4823

**Application No.: 10/792,038**

**Art Unit: 1795**

**Date Filed:** **March 3, 2004**

**Examiner:** LE, Hoa Van

**Title:** COMPOSITION AND PROCESS FOR  
POST-ETCH REMOVAL OF  
PHOTORESIST AND/OR  
SACRIFICIAL ANTI-REFLECTIVE  
MATERIAL DEPOSITED ON A  
SUBSTRATE

**Customer No.:** 24239

## DECLARATION UNDER 37 CFR §1.132 IN U.S. PATENT APPLICATION NO. 10/792,038

**Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450**

**Sir:**

MICHAEL B. KORZENSKI, and THOMAS H. BAUM hereby declare:

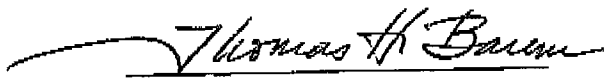
1. THAT we are co-inventors of the subject matter disclosed and elected in United States Patent Application No. 10/792,038 filed March 3, 2004 in the names of Melissa K. Rath, David D. Bernhard, David W. Minsek, Michael B. Korzenski, and Thomas H. Baum and entitled, **"COMPOSITION AND PROCESS FOR POST-ETCH REMOVAL OF PHOTORESIST AND/OR SACRIFICIAL ANTI-REFLECTIVE MATERIAL DEPOSITED ON A SUBSTRATE,"** hereafter referred to as the "Application."
2. THAT the Application relates to compositions and processes for removing photoresist and/or sacrificial anti-reflective coating (SARC) from a substrate having said materials thereon. The elected claims relate generally to a cleaning composition including a quaternary base, at least one alkali or alkaline earth base, and at least one additional component selected from the group consisting of a chelator, an oxirane species, and combinations thereof.

3. THAT the undersigned executed a Declaration under 1.131 (hereafter "the 131 Declaration") on August 14, 2006 as evidence of the completion and possession of the cleaning compositions disclosed and claimed in the Application prior to June 18, 2003 (see Exhibit A for a copy of the 131 Declaration).
4. THAT the undersigned do hereby declare that the acronym "2-MBI" used throughout the 131 Declaration corresponds to 2-mercaptobenzimidazole.
5. THAT we are aware that the Application has been examined by the United States Patent and Trademark Office and the claims of the Application have been rejected on various grounds including the disclosure of:
  - Chien-Pin Sherman Hsu (U.S. Patent Application Publication No. 2005/0176603) (hereinafter "the Hsu reference") filed on November 5, 2004, based on U.S. Provisional Application No. 60/543,801, filed February 11, 2004.
6. THAT the 131 Declaration previously submitted was evidence of the completion and possession of the cleaning compositions disclosed and claimed in the Application prior to June 18, 2003. Accordingly, the 131 Declaration is also evidence of the completion and possession of the cleaning compositions disclosed and claimed in the Application prior to the Hsu priority date of February 11, 2004.

As a below-named declarant, I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements are made with the knowledge that willful false statements, and the like, so made are punishable by fine or imprisonment, or both, under Section 1001 or Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

  
MICHAEL B. KORZENSKI

Date 2-19-08

  
THOMAS H. BAUM

Date 2-19-08

**EXHIBIT A**

AUG. 15. 2006 11:51AM

ATMI (203) 830-2123

NO. 4519 P. 2

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re United States Patent Application of:	Docket No.:	020732-97.664 (7493)
Applicants:	Conf. No.:	4823
Application No.:	Art Unit:	1782
Date Filed:	Examiner:	LE, Hoa Van
Title:	Customer No.:	24239
COMPOSITION AND PROCESS FOR POST-ETCH REMOVAL OF PHOTORESIST AND/OR SACRIFICIAL ANTI-REFLECTIVE MATERIAL DEPOSITED ON A SUBSTRATE		

DECLARATION UNDER 37 CFR §1.131 IN U.S. PATENT APPLICATION NO. 10/792,038

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

MELISSA K. RATE, DAVID D. BERNHARD, DAVID W. MINSKE, MICHAEL B. KORZENSKI, and THOMAS H. BAUM hereby declare:

1. THAT we are co-inventors of the subject matter disclosed and elected in United States Patent Application No. 10/792,038 filed March 3, 2004 in the names of Melissa K. Rate, David D. Bernhard, David W. Minske, Michael B. Korzenki, and Thomas H. Baum and entitled, "COMPOSITION AND PROCESS FOR POST-ETCH REMOVAL OF PHOTORESIST AND/OR SACRIFICIAL ANTI-REFLECTIVE MATERIAL DEPOSITED ON A SUBSTRATE," hereafter referred to as the "Application."
2. THAT the Application relates to compositions and processes for removing photoresist and/or sacrificial anti-reflective coating (SARC) from a substrate having solid materials thereon. The elected claims specifically relate to the following composition:

AUG. 15. 2006 11:52AM

ATMI (703) 830-2123

NO. 4519 P. 3

1. A cleaning composition including an active cleaning combination (ACC), wherein said ACC consists of a quaternary base in combination with at least one of alkali and alkaline earth base and said cleaning composition is useful for removing photoresist and/or artificial anti-reflective coating (SARC) materials from a substrate having such material(s) thereon.
2. THAT we are aware that the Application has been examined by the United States Patent and Trademark Office and the claims of the Application have been rejected on various grounds including the disclosure of:
  - \* Yokoi, et al, (U.S. Patent Application Publication No. 2004/0259761) (hereinafter "the Yokoi reference") filed on June 10, 2004, based on U.S. Provisional Application No. 60/479,146, filed June 18, 2003, the content of which is unknown because it was filed in Japanese (hereinafter "the Yokoi Provisional Application").
3. THAT Exhibit A attached herewith includes true and exact copies of pages of David D. Bernhard's and Melissa K. Rauh's<sup>1</sup> laboratory notebooks, and that all concepts, experiments and acts disclosed on the laboratory notebook pages were conducted in the United States before the filing date of the Yokoi Provisional Application cited hereinabove.
4. THAT all the dates have been blacked out on the attached laboratory notebook pages but all dates are prior to the date of June 18, 2003, which is the filing date of the Yokoi Provisional Application;<sup>2</sup> that information on the laboratory notebook pages that may not be in the public domain has been redacted; and that every one of the attached laboratory notebook pages (Appendix A) discloses a composition including an active cleaning composition (ACC), wherein said ACC consists of a quaternary base in combination with at least one of alkali and alkaline earth base. Thus, the combination of disclosures described herein, provides ample support for the presently claimed invention.
5. THAT we offer Exhibit A with this Declaration as evidence of the completion and possession of the cleaning compositions disclosed and claimed in the Application prior to the June 18, 2003 date of the Yokoi Provisional Application reference.

<sup>1</sup> Melissa K. Murphy has reassumed her maiden name "Rauh"

<sup>2</sup> assuming that the Yokoi Provisional Application enables the Yokoi reference.

AUG. 15. 2006 11:53AM

ATMI (203) 830-2123

NO. 4519 P. 4

As a below-named declarant, I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements are made with the knowledge that willful false statements, and the like, so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.



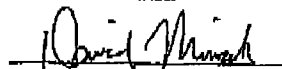
MELISSA K. RATH

Date

8/14/06

DAVID D. BERNHARD

Date



DAVID W. MINSEK

Date

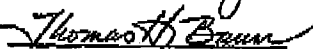
8/14/06



MICHAEL B. KORZENSKI

Date

8/14/06



THOMAS H. BAUM

Date

8-14-06

As a below-named declarant, I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements are made with the knowledge that willful false statements, and the like, so made are punishable by fine or imprisonment, or both, under Section 1001 or Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

\_\_\_\_\_  
MELISSA K. RATH

Date \_\_\_\_\_



Date 8/15/06

DAVID D. BERNHARD

Date \_\_\_\_\_

\_\_\_\_\_  
DAVID W. MINSEK

Date \_\_\_\_\_

\_\_\_\_\_  
MICHAEL B. KORZENSKI

Date \_\_\_\_\_

\_\_\_\_\_  
THOMAS H. BAUM

FEB. 19. 2008 12:40PM

ATMI EXECUTIVE OFFICE

NO. 7018 P. 9/12

AUG. 15. 2006 11:53AM

ATMI (203) 830-2123

NO. 4519 P. 5

EXHIBIT A



Project No. \_\_\_\_\_  
 Book No. \_\_\_\_\_ TITLE \_\_\_\_\_

Page No. \_\_\_\_\_

3. 30%

BT-AM  
 KOL  
 2-BC  
 HIO  
 RC  
 SULPHATE

need & Understood by me, \_\_\_\_\_ Date \_\_\_\_\_  
 Invented by \_\_\_\_\_ Date \_\_\_\_\_

To Page No. \_\_\_\_\_

<p>FILE</p> <p>Form Page No. _____</p>	<p>Project No. _____</p> <p>Book No. <u>5</u></p>	<div style="border: 1px solid black; height: 100px; width: 100%;"></div>
<p>Witnessed &amp; Understood by me.</p> <p><i>Chris Obay</i></p>		
<p>Date</p> <p><i>Feb 19 2008</i></p>	<p>Initiated by</p> <p><i>Chris Obay</i></p>	<p>Date</p> <p><i>Feb 19 2008</i></p>
<p>Recorded by</p>		

Project No. \_\_\_\_\_  
Book No. \_\_\_\_\_ TITLE \_\_\_\_\_

Page No. \_\_\_\_\_

# 1 ~~REMAN~~ w/ ☒ APN

REMAN ☒  
KON ☒  
NAMO ☒  
ZAKI ☒  
H.O. ☒  
APN

# 2 ~~REMAN~~ w/ ☒ APN

REMAN ☒  
KON ☒  
NAMO ☒  
ZAKI ☒  
H.O. ☒  
APN

# 3 ~~REMAN~~ w/ ☒ APN

REMAN ☒  
KON ☒  
NAMO ☒  
ZAKI ☒  
H.O. ☒  
APN

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Indexed & Underlined by me. Date \_\_\_\_\_ Indexed by \_\_\_\_\_ Date \_\_\_\_\_

# EXHIBIT 3

1 wt% TMAH

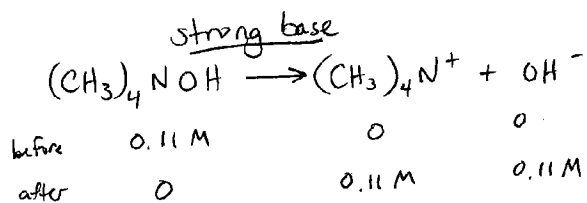
assume 100 g of solution

$$\frac{1 \text{ g TMAH}}{91.15 \text{ g}} \times \frac{1 \text{ mole}}{91.15 \text{ g}} = 0.011 \text{ moles TMAH}$$

assume density of 1 wt% TMAH = 1 g/mL

$$\frac{100 \text{ g 1 wt\% TMAH}}{1 \text{ g}} = 100 \text{ mL}$$

$$\text{Molarity TMAH} = \frac{0.011 \text{ moles}}{0.1 \text{ L}} = 0.11 \text{ M}$$



$$[\text{OH}^-] = 0.11 \text{ M}$$

$$\text{pOH} = 0.95$$

$$\boxed{\text{pH} = 13.05}$$

#### EXHIBIT 4



## EXHIBIT 5

# pH = 8.00

at temperature 25 °C

lactic acid+TMAH

C(lactic acid) = 0.05 M (total)

ionic strength = 0.05000

Prepared by .....

Thursday, August 27, 2009

To make 1 L of above solution mix:

50.00 mL of 1.000M lactic acid (HLactate)

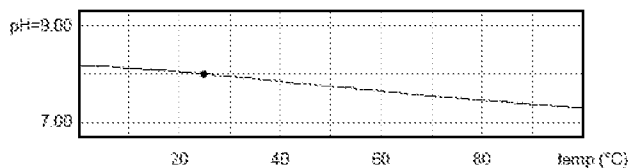
50.00 mL of 1.000M TMAH (TMAOH)

Fill up to 1 L

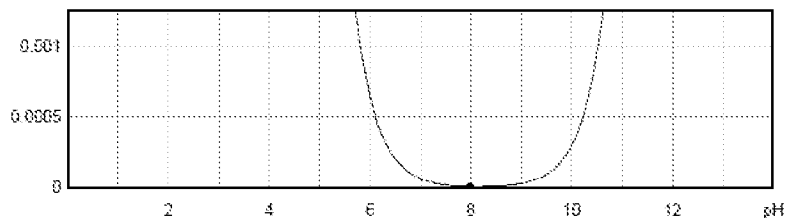
If preparing by titration @ 25 °C, titrate to pH = 8.00

Remember to check and - if necessary - adjust pH of your buffer!

Buffer pH vs temperature plot:



Buffer capacity vs pH plot:



Expected pH changes:

adding strong monoprotic acid

10 mmol/L, pH = 4.35

5 mmol/L, pH = 4.71

1 mmol/L, pH = 5.44

nominal buffer pH = 8.00

adding strong monoprotic base

1 mmol/L, pH = 10.89

5 mmol/L, pH = 11.59

10 mmol/L, pH = 11.89

# pH = 9.00

at temperature 25 °C

lactic acid+TMAH

C(lactic acid) = 0.05 M (total)

ionic strength = 0.05001

Prepared by .....

Thursday, August 27, 2009

To make 1 L of above solution mix:

50.00 mL of 1.000M lactic acid (HLactate)

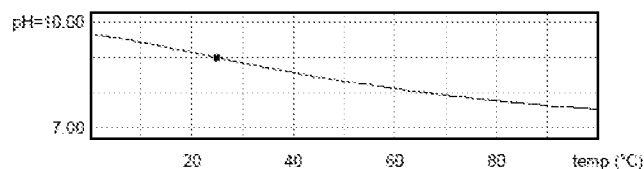
50.01 mL of 1.000M TMAH (TMAOH)

Fill up to 1 L

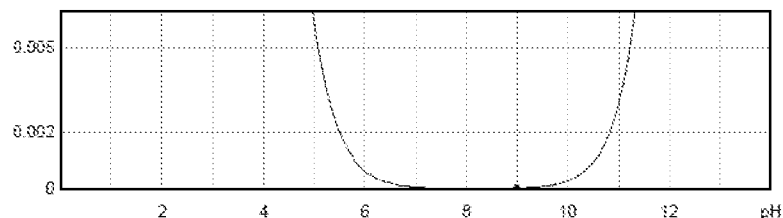
If preparing by titration @ 25 °C, titrate to pH = 9.00

Remember to check and - if necessary - adjust pH of your buffer!

Buffer pH vs temperature plot:



Buffer capacity vs pH plot:



Expected pH changes:

adding strong monoprotic acid

10 mmol/L, pH = 4.36

5 mmol/L, pH = 4.71

1 mmol/L, pH = 5.45

nominal buffer pH = 9.00

adding strong monoprotic base

1 mmol/L, pH = 10.50

5 mmol/L, pH = 11.59

10 mmol/L, pH = 11.89

# pH = 10.00

at temperature 25 °C

lactic acid+TMAH

C(lactic acid) = 0.05 M (total)

ionic strength = 0.05006

Prepared by .....

Thursday, August 27, 2009

To make 1 L of above solution mix:

50.00 mL of 1.000M lactic acid (HLactate)

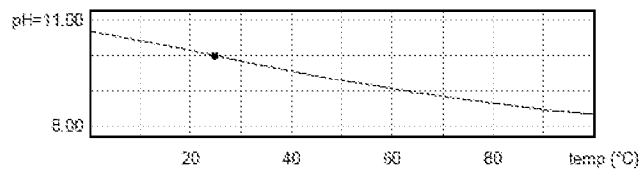
50.13 mL of 1.000M TMAH (TMAOH)

Fill up to 1 L

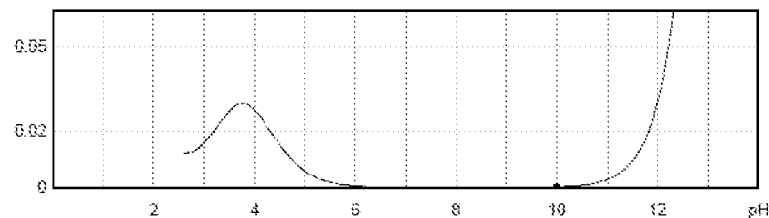
If preparing by titration @ 25 °C, titrate to pH = 10.00

Remember to check and - if necessary - adjust pH of your buffer!

Buffer pH vs temperature plot:



Buffer capacity vs pH plot:



Expected pH changes:

adding strong monoprotic acid

10 mmol/L, pH = 4.37

5 mmol/L, pH = 4.72

1 mmol/L, pH = 5.51

nominal buffer pH = 10.00

adding strong monoprotic base

1 mmol/L, pH = 10.94

5 mmol/L, pH = 11.60

10 mmol/L, pH = 11.90



# pH = 11.00

at temperature 25 °C

lactic acid+TMAH

C(lactic acid) = 0.05 M (total)

ionic strength = 0.05059

Prepared by .....

Thursday, August 27, 2009

To make 1 L of above solution mix:

50.00 mL of 1.000M lactic acid (HLactate)

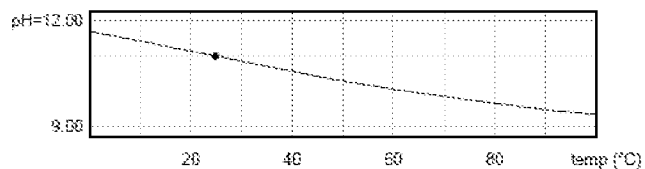
51.29 mL of 1.000M TMAH (TMAOH)

Fill up to 1 L

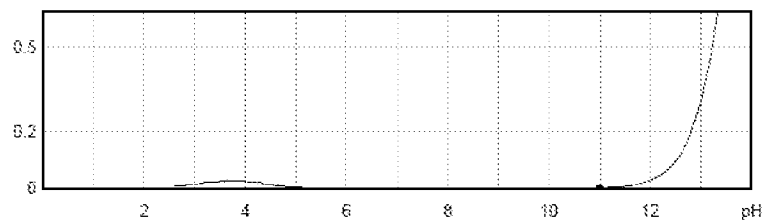
If preparing by titration @ 25 °C, titrate to pH = 11.00

Remember to check and - if necessary - adjust pH of your buffer!

Buffer pH vs temperature plot:



Buffer capacity vs pH plot:



Expected pH changes:

adding strong monoprotic acid

10 mmol/L, pH = 4.43

5 mmol/L, pH = 4.85

1 mmol/L, pH = 10.35

nominal buffer pH = 11.00

adding strong monoprotic base

1 mmol/L, pH = 11.25

5 mmol/L, pH = 11.69

10 mmol/L, pH = 11.94

## **RELATED PROCEEDINGS APPENDIX**

There exist no other prior or pending appeals, interference or judicial proceedings known to appellant, appellant's attorney, or the assignee which may be related to, direct affect or be directly affected by or have a bearing on the Board's decision in the pending appeal. Accordingly, there exists no decisions rendered by a court of the Board in any related proceedings, such that no related proceedings are identified in this Related Proceedings Appendix.